

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WHDH-TV

Plaintiff,

v.

COMCAST CORPORATION,

Defendant.

Civil Action No. 1:16-cv-10494-RGS

DEFENDANT COMCAST CORPORATION'S MOTION TO DISMISS THE COMPLAINT

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, defendant Comcast Corporation ("Comcast") respectfully brings this motion to dismiss the Complaint of plaintiff WHDH-TV ("WHDH"), with prejudice, for failure to state a claim on which relief may be granted. In support of this Motion, Comcast relies on the accompanying Memorandum of Law and the documents attached to and referenced in the Complaint, including the FCC Memorandum Opinion and Order dated January 20, 2011.^{1/}

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), Comcast respectfully requests oral argument on this Motion.

^{1/} As noted in the Complaint ¶ 74, the FCC Order is publicly available at <https://transition.fcc.gov/FCC-11-4.pdf>. The Court may take judicial notice of the entire document. *See Giragosian v. Ryan*, 547 F.3d 59, 65 (1st Cir. 2008).

Dated: April 12, 2016

Respectfully submitted,

COMCAST CORPORATION,

By its attorneys,

/s/ Peter A. Biagetti

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LOCAL RULE CERTIFICATION

Pursuant to Local Rule 7.1(a)(2), counsel for Comcast certify that they conferred with counsel for WHDH in a good faith effort to resolve or narrow the issues raised by this Motion, but were unable to do so.

/s/ Peter A. Biagetti

Peter A. Biagetti

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on the date of electronic filing.

/s/ Peter A. Biagetti

Peter A. Biagetti